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October 25, 2023

Hon. Cheryl L. Pollak, USMJ
United States District Court Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201
VIA ECF

Re: Pereira v. Capala, Docket No.: 17-cv-3434 (ILG) (CLP)
Gortat et al. v. Capala Bros. et al.; Docket No.: 07-cv-3629 (DG)(CLP)

Dear Judge Pollak,

I represent my firm and the Gortat Plaintiffs in the above consolidated action, which comprises: the Pereira Action and the Rule 69 proceeding in the Gortat Action. By this letter, I seek a status conference in the Gortat Action.

As Your Honor is aware, the parties in the Pereira settled their action and my firm and the Gortat Plaintiffs were signatories to that settlement agreement. However, the settlement agreement specifically excluded the rights my firm and the Gortat Plaintiffs have in the Gortat Action in which we have substantial claims against Capala Brothers, Inc. and the purchasers of the corporate shop – the Cielepaks. During the settlement discussions in the Pereira case, I invited the attorney for the Cielepaks to resolve our differences at that time so that both cases could conclude. Unfortunately, he declined.

In the Gortat Action, there is the issue of Plaintiffs' very substantial attorney fees and costs incurred in the Rule 69 proceeding, in which they basically uncovered all the fraud on which the bankruptcy trustee, Mr. Pereira, later based his lawsuit. In the Gortat Action, Capala Bros, Inc. which has not been dissolved, defaulted in that it never retained a new attorney after its counsel, Bruce Bieber, was allowed to withdraw from representing it by Magistrate Judge Gold (DE 496) (minute entry dated 04/22/15 attached herewith). There is also the unresolved issue of the Cielepaks' appeal to the Hon. Glasser of MJ Gold's Report and Recommendation which found that the corporate shop had been sold for below market value and directed a payment to Plaintiffs.

In light of the above, I respectfully request that Your Honor schedule a status conference at which these issues can be addressed. For Your Honor's benefit, I have court proceedings which I will not be able to change on October 31, November 3, 7, 11, 22 and will be out of the country from November 24 to December 10.

Respectfully submitted,
/s/ Robert Wisniewski
Robert Wisniewski

cc: All counsel of record via ECF